

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTHONY L. BROWN,	§
	§ No. 685, 2009
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0312004556
	§
Plaintiff Below-	§
Appellee.	§

Submitted: March 18, 2010

Decided: April 9, 2010

Before **BERGER, JACOBS** and **RIDGELY**, Justices.

**ORDER**

This 9<sup>th</sup> day of April 2010, upon consideration of the appellant's opening brief pursuant to Supreme Court Rule 26(c), his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) The defendant-appellant, Anthony L. Brown, was found to have committed a violation of probation ("VOP") in connection with his sentence for Robbery in the First Degree when he admitted to pleading guilty to new robbery, burglary and weapon charges. He was sentenced to a total of 6 years incarceration at Level V, to be suspended after 4 years for 1 year at Level IV work release. This is Brown's direct appeal from his VOP sentence.

(2) Brown's counsel has filed a brief and a motion to withdraw pursuant to Rule 26(c). Brown's counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Brown's counsel informed him of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and the accompanying brief. Brown also was informed of his right to supplement his attorney's presentation. Brown has not raised any issues for this Court's consideration. The State has responded to the position taken by Brown's counsel and has moved to affirm the Superior Court's decision.

(3) The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold: (a) this Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (b) this Court must conduct its own review of the record and determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.\*

(4) This Court has reviewed the record carefully and has concluded that Brown's appeal is wholly without merit and devoid of any arguably

---

\* *Person v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

appealable issue. We also are satisfied that Brown's counsel has made a conscientious effort to examine the record and the law and has properly determined that Brown could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice